

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * * * *

UNITED STATES OF AMERICA,

Plaintiff,

v.

TERRANCE HOFUS,

Defendant.

3:08-cr-0022-LRH-VPC

ORDER

Before the Court is Defendant Terrance Hofus' ("Hofus") Motion to Extend or Reopen Time to File an Appeal. Doc. #123. The United States filed an Opposition (Doc. #124), to which Hofus replied (Doc. #125).

Hofus was indicted on charges of attempted coercion and enticement of a minor to engage in sexual activity on March 26, 2008. Doc. #10. After a four-day trial, the jury found Hofus guilty on September 29, 2008. Doc. #67. Hofus appealed, and the Ninth Circuit affirmed and denied Hofus' petition for rehearing en banc on March 19, 2010. Doc. #102. Thereafter, the Supreme Court denied Hofus' petition for a writ of certiorari. Doc. #105. Hofus filed a motion to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255 on September 16, 2011. Doc. #106. The Court denied this motion on May 17, 2012. Doc. #119. Hofus filed the present Motion to Reopen Time to File an Appeal of the Court's Order denying his § 2255 motion on February 10, 2015. Doc. #123.

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1 For cases in which the government is a party, notice of appeal must normally be filed within
2 sixty days of entry of judgment. Fed. R. App. P. 4(a)(1)(B). A district court may extend time if (1)
3 a party so moves within thirty days of the expiration of the sixty day window, or (2) when a party did
4 not receive notice of the entry of judgment and files a motion to reopen time to file an appeal within
5 180 days of the judgment, or within fourteen days after the party received notice, whichever is earlier.
6 Fed. R. App. P. 4(a)(5)-(6). District courts do not have discretion to grant a motion to reopen time to
7 file an appeal if such a motion is filed outside of the time period expressly authorized by federal law.
8 *In re Stein*, 197 F.3d 421, 425 (9th Cir. 1999) (citing *Zimmer St. Louis, Inc. v. Zimmer Co.*, 32 F.3d
9 357 (8th Cir. 1994)).

10 Hofus argues that the Court should reopen time for an appeal because he did not learn of the
11 Court's denial of his § 2255 motion until early January, 2015. However, Hofus did not file his motion
12 to reopen until approximately thirty-two months after the Court's Order, long after the 180 day post-
13 judgment time limit permitted by Rule 4(a). Moreover, Hofus has identified no reason for his failure
14 to check on the status of his § 2255 motion during that time prior to January, 2015. Accordingly, the
15 Court denies Hofus' Motion to Extend or Reopen Time to File an Appeal. *See In re Stein*, 197 F.3d
16 at 425.

17 IT IS THEREFORE ORDERED that Hofus' Motion to Extend or Reopen Time to File an
18 Appeal (Doc. #123) is DENIED.

19 IT IS SO ORDERED.

20 DATED this 9th day of March, 2015.

21 
22 LARRY R. HICKS
23 UNITED STATES DISTRICT JUDGE
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